



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Boes Iron Works, Inc.
File: B-235794.2
Date: July 7, 1989

DIGEST

Fact that agency delayed release of abstract of offers to protester does not provide a basis for reopening protest dismissed as untimely where protester did not raise any arguments based on the abstract within 10 days of its receipt. In any event, information in abstract does not appear to have any relation to original basis of protest, which was that award to foreign firm was improper.

DECISION

Boes Iron Works, Inc., requests reconsideration of our June 8, 1989, dismissal of its protest under request for proposals (RFP) No. DAAE07-88-R-J255, issued by the United States Army Tank-Automotive Command for semitrailer fuel tanks. We dismissed Boes' protest as untimely because it was not filed with our Office within 10 days after the Army denied the protester's agency-level protest, as required by our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(3) (1988). We affirm the dismissal.

By notice dated April 7, 1989, the Army informed Boes that it had awarded a contract to the Canadian Commercial Corporation (CCC).^{1/} On April 19, Boes filed a protest with the agency objecting to the award to a foreign firm. The agency denied Boes' protest on April 27. By letter dated June 2, received in our Office on June 8, Boes then protested to us. As previously noted, we dismissed the

^{1/} Pursuant to the Department of Defense Supplement to the Federal Acquisition Regulation § 225.7104(b) (1988 ed.), contracts with Canadian firms generally are to be made with the Canadian Commercial Corporation, which then in effect subcontracts performance of the contract to a specific firm.

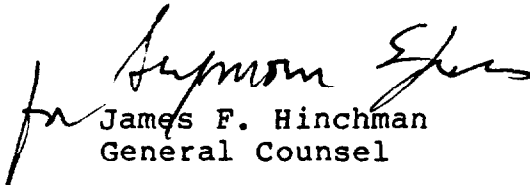
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protest as untimely because it was not filed within 10 days after the Army had denied the protester's agency-level protest.

In its request for reconsideration, Boes appears to argue that the agency's delay in providing it with a copy of the abstract of offers requires that its protest be considered. The record indicates that Boes first requested a copy of the abstract by letter dated April 12 and that the Army mailed a copy of the abstract to the protester on May 3.

While the Army did delay approximately 3 weeks before furnishing the protester a copy of the abstract, we do not believe that this constitutes a basis for opening the protest. Our Regulations permit a protester to file a protest up to 10 days after it learns of the basis for protest, 4 C.F.R. § 21.2(a)(2); thus, to the extent that Boes learned information from the abstract that gave rise to additional grounds of protest, it had 10 days from its receipt of the abstract to raise them. Boes did not raise any additional grounds of protest within 10 days after its receipt of the abstract, however; instead it delayed approximately a month before filing a protest with our Office on June 8. Furthermore, there does not, in any event, appear to be any connection between the pricing information contained in the abstract and the protester's basis for protest to our Office, which was that award to a foreign firm was improper.

Since the protester has not shown that our dismissal of the protest was improper, we affirm it.


James F. Hinchman
General Counsel